

REMARKS

Upon entry of the instant Amendment, claims 1-18 will be pending in the application. By this amendment, claims 1, 8, 10 and 13-18 will have been amended. No new matter is added. Support for the claim amendments can be found on paragraphs [0006] and [0011] of the published version of the instant application, i.e., US No. 2003/0140013. Reconsideration of the rejected claims in view of the above amendments and the following remarks is respectfully requested.

35 U.S.C. § 101 Rejection

Claims 1-12 were rejected under 35 U.S.C. § 101 for being allegedly being directed to non-statutory subject matter.

While acknowledging that the invention satisfies the "Useful Result" and "Concrete Result" requirements, the Examiner nevertheless asserts that the invention does not satisfy the "Tangible Result" requirement because the claims "do not produce a real-world result, or beneficial effect and thus has no substantial application."

Applicants respectfully disagree and reiterate the arguments presented in Applicants' previous Rule 1.112 response. Furthermore, Applicants direct the Examiner's attention to the "Overview of Interim Guidelines for Subject Matter Eligibility". These guidelines specifically state the following with regard to "tangible Result" requirement:

"Tangible"

- "Real world" result.
- Not necessarily tied to a machine; not a duplicate of "physical transformation".

- In other words, the opposite of "tangible" is "abstract".
- Thoughts are not "real world" results.
- Example: Calculating a price of an item to sell and then conveying the calculated price to a potential customer

The third and final factor in this test for practical application is a determination of whether the claimed invention produces a tangible result. The tangible requirement does not necessarily mean that a claim must either be tied to a particular machine or apparatus, or must operate to change articles or materials to a different state or thing. To be tangible the claim must recite more than a § 101 judicial exception, in that the process claim must set forth a practical application of that § 101 judicial exception to produce a real-world result.

If the result is merely a thought, this is not a tangible or real-world result. For example, merely determining or calculating a price may not be held to be a tangible result, instead reasonably being interpreted as just a thought or a computation within a processor; however, calculating a price of an item to sell and then conveying the calculated price to a potential customer would be a tangible result. (emphasis added)

As the Examiner will note, amended independent claims 1, 8 and 10 recite either responding to a customer request by providing the per-point price for data processing services or specifying to a customer the per-point price for data processing services. These features are not merely akin to calculating the price of an item as discussed in the above-noted language of the Interim Guidelines, and are instead akin to conveying the calculated price to a potential customer.

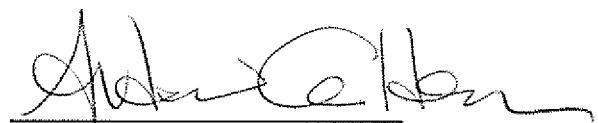
Claims 2-7, 9, 11 and 12 depend from claims 1, 8 and 10 and therefore also clearly recite statutory subject matter.

Accordingly, Applicants respectfully request that the above-noted rejection under 35 U.S.C. § 101 be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Any fees required for consideration of the instant response are hereby authorized to be charged to our Deposit Account No. 09-0457.

Respectfully submitted,
C. W. FELLENSTEIN et al.



Andrew M. Calderon
Reg. No. 38,093

GREENBLUM & BERNSTEIN, P.L.C.
1950 Roland Clarke Place
Reston, VA 20191
703-716-1191